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GENERAL SERVICES ADMINISTRATION

48 CFR Parts 523 and 552

[GSAR Case 2006-G506; Docket No. 2009-0005; Sequence No. 2]

RIN 3090-AI82

**General Services Administration Acquisition Regulation
(GSAR); Environmental, Conservation, Occupational Safety
and Drug-Free Workplace**

AGENCY: Office of Acquisition Policy, General Services
Administration.

ACTION: Proposed rule.

SUMMARY: The General Services Administration (GSA) is proposing to amend the General Services Administration Acquisition Regulation (GSAR) to update the text and clauses regarding Hazardous Materials Identification and Material Safety Data. The second proposed rule incorporates many of the changes of the proposed rule and makes additional modifications to the text.

DATES: Interested parties should submit written comments to the Regulatory Secretariat at one of the addressees shown below on or before **[Insert 60 days after publication in the FEDERAL REGISTER]** to be considered in the formation of the final rule.

ADDRESSES: Submit comments in response to GSAR Case 2006-G506 by any of the following methods:

- Regulations.gov: <http://www.regulations.gov>.

Submit comments by searching for "GSAR Case 2006-G506". Select the link "Comment Now" that corresponds with "GSAR Case 2006-G506." Follow the instructions provided at the "Comment Now" screen. Please include your name, company name (if any), and "GSAR Case 2006-G506" on your attached document.

- Fax: 202-501-4067.
- Mail: General Services Administration, Regulatory Secretariat (MVCB), ATTN: Ms. Flowers, 1800 F Street, NW., 2nd Floor, Washington, DC 20405.

Instructions: Please submit comments only and cite GSAR Case 2006-G506, in all correspondence related to this case. All comments received will be posted without change to <http://www.regulations.gov>, including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: Mr. Kevin Funk, Program Analyst, at 215-446-4860 or kevin.funk@gsa.gov, for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202-501-4755. Please cite GSAR Case 2006-G506.

SUPPLEMENTARY INFORMATION:

I. Background

GSA is proposing to amend the GSAR to update the text and clauses regarding Subpart 523.3-Hazardous Materials Identification and Material Safety Data.

GSA published a proposed rule in the Federal Register at 74 FR 11889 on March 20, 2009 to update the text and clauses regarding Hazardous Materials Identification and Material Safety Data. No comments were received in response to the proposed rule. This case is issued as a second proposed rule due to the length of time since the original proposed rule was published in 2009 and updates to the regulations referenced in the General Services Administration Manual (GSAM) Subpart 523.3.

This proposed rule changes the title of GSAR part 523 to "Environment, Energy and Water Efficiency, Renewable Energy Technologies, Occupational Safety, and Drug-Free Workplace", to correspond to the title in Federal Acquisition Regulation (FAR) part 23. The title for GSAR Subpart 523.3 is changed to "Hazardous Material Identification and Material Safety Data" to be consistent with the corresponding FAR subpart.

In addition, this rule adds a new hazardous materials GSAR clause 552.223-73. GSAR clause 552.223-73, Preservation, Packaging, Packing, Marking and Labeling of Hazardous Materials (HAZMAT) for Shipments is added to

require compliance by contractors regarding preservation, packaging, packing, marking and labeling of hazardous materials. This clause is also added to the provision and clause matrix.

In addition, the GSAR clause 552.212-72, Contract Terms and Conditions Required to Implement Statutes or Executive Orders Applicable to GSA Acquisition of Commercial Items, is updated to include the new hazardous material clause 552.223-73.

II. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

III. Regulatory Flexibility Act

GSA does not expect this proposed rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, et seq., because there are no substantive changes. Therefore, an Initial Regulatory Flexibility Analysis (IRFA) has not been performed. GSA invites comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

GSA will also consider comments from small entities concerning the existing regulations in subparts affected by the rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (GSAR Case 2006-G506), in correspondence.

IV. Paperwork Reduction Act

The proposed rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Parts 523 and 552

Government procurement.

Dated: February 11, 2015.

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Office of Acquisition Policy,
Office of Government-wide Policy,
General Services Administration.

Therefore, GSA proposes to amend 48 CFR parts 523 and 552 as set forth below:

**PART 523—ENVIRONMENT, ENERGY AND WATER EFFICIENCY,
RENEWABLE ENERGY TECHNOLOGIES, OCCUPATIONAL SAFETY, AND
DRUG-FREE WORKPLACE**

1. The authority citation for 48 CFR part 523 is revised to read as follows:

Authority: 40 U.S.C 121(c).

2. Revise the heading of part 523 to read as set forth above.

3. Amend section 523.303 by revising the section heading and adding paragraph (c) to read as follows:

523.303 Contract clauses.

* * * * *

(c) Insert 552.223-73, Preservation, Packaging, Packing, Marking and Labeling of Hazardous Materials (HAZMAT) for Shipments, in solicitations and contracts for packaged items subject to the Occupational Safety and Health Act and the Hazardous Materials Transportation Act.

PART 552—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

4. The authority citation for 48 CFR part 552 continues to read as follows:

Authority: 40 U.S.C 121(c).

5. Amend section 552.212-72 by revising the

introductory text, the date of the clause, and paragraph

(b) to read as follows:

**552.212-72 Contract Terms and Conditions Required to
Implement Statutes or Executive Orders Applicable to GSA
Acquisition of Commercial Items.**

As prescribed in 512.301(a)(2), insert the following
clause:

CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE
ORDERS APPLICABLE TO GSA ACQUISITION OF COMMERCIAL ITEMS (**DATE**)

* * * * *

(b) Clauses.

- (1) ___ 552.223-70 Hazardous Substances.
- (2) ___ 552.223-71 Nonconforming Hazardous Material.
- (3) ___ 552.223-73 Preservation, Packaging, Packing,
Marking and Labeling of Hazardous
Materials (HAZMAT) for Shipments.
- (4) ___ 552.238-70 Identification of Electronic
Office Equipment Providing Accessibility
for the Handicapped.
- (5) ___ 552.238-72 Identification of Products that
have Environmental Attributes.

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6. Add section 552.223-73 to read as follows:

**552.223-73 Preservation, Packaging, Packing, Marking and
Labeling of Hazardous Materials (HAZMAT) For Shipments.**

As prescribed in 523.303(c), insert the following
clause:

PRESERVATION, PACKAGING, PACKING, MARKING AND LABELING OF HAZARDOUS
MATERIALS (HAZMAT) FOR SHIPMENTS (**DATE**)

(a) Definition. United States, as used in this
clause, means the 48 adjoining U.S. States, Alaska, Hawaii,

and U.S. territories and possessions, such as Puerto Rico.

(b) Preservation, packaging, packing, marking and labeling of hazardous materials for export shipment outside the United States in all transport modes shall comply with the following, as applicable:

(1) International Maritime Dangerous Goods (IMDG) Code as established by the International Maritime Organization (IMO).

(2) U.S. Department of Transportation (DOT) Hazardous Material Regulation (HMR) 49 CFR parts 171 through 180. (Note: Classifications permitted by the HMR, but not permitted by the IMDG code, such as Consumer Commodities classed as ORM-D shall be packaged in accordance with the IMDG Code and dual marked with both Consumer Commodity and IMDG marking and labeling.)

(3) Occupational Safety and Health Administration (OSHA) Regulation 29 (CFR) part 1910.1200.

(4) International Air Transport Association (IATA), Dangerous Goods Regulation and/or International Civil Aviation Organization (ICAO), Technical Instructions.

(5) AFMAN 24-204, Air Force Inter- Service Manual, Preparing Hazardous Materials For Military Air Shipments.

(6) Any preservation, packaging, packing, marking and labeling requirements contained elsewhere in this solicitation and contract.

(c) Preservation, packaging, packing, marking and labeling of hazardous materials for domestic shipments within the United States in all transport modes shall comply with the following; as applicable:

(1) U.S. Department of Transportation (DOT) Hazardous Material Regulation (HMR) 49, CFR parts 171 through 180.

(2) Occupational Safety and Health Administration (OSHA) Regulation 29 CFR part 1910.1200.

(3) Any preservation, packaging, packing, marking and labeling requirements contained elsewhere in this

solicitation and contract.

(d) Hazardous Material Packages designated for outside the United States destinations through Forwarding Points, Distribution Centers, or Container Consolidation Points (CCPs) shall comply with the IMDG, IATA, ICAO or AFMAN 24-204 codes, as applicable.

(e) The test certification data showing compliance with performance-oriented packaging or UN approved packaging requirements shall be made available to GSA contract administration/management representatives or regulatory inspectors upon request.

(End of clause)

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